

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America

v.

1. Deny Misraim Baez Trejo, and
2. Erubiel Fierro Trejo.

CRIMINAL COMPLAINT

CASE NUMBER: 24-4067 MJ CDB

I, the undersigned complainant, being duly sworn, state that the following is true and correct to the best of my knowledge and belief:

On or about the date described in Attachment A in the County of Coconino in the District of Arizona, the defendants committed the crime of Possession or Receipt of Goods Stolen from Interstate Shipment, in violation of Title 18, United States Code (U.S.C.) § 659, offense described as follows:

See Attachment A, Description of Count

I further state that I am a Special Agent for Homeland Security Investigations (HSI) and that this complaint is based on the following facts:

See Attachment B, Statement of Probable Cause, Incorporated by Reference Herein.

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

AUTHORIZED BY: Addison Owen, AUSA 

Chris Foster, SA for HSI

Name of Complainant

CHRISTOPHER E FOSTER

Digitally signed by CHRISTOPHER E
FOSTER
Date: 2024.03.16 14:24:43 -07'00'

Signature of Complainant

Sworn to telephonically before me

March 16, 2024

Date

at

Flagstaff, Arizona

City and State

HONORABLE CAMILLE D. BIBLES

United States Magistrate Judge

Name & Title of Judicial Officer

Signature of Judicial Officer

ATTACHMENT A
DESCRIPTION OF COUNT
COUNT 1

Theft from Interstate Shipment

On or about March 15, 2024, in the District of Arizona, Defendants DENY MISRAIM BAEZ TREJO and ERUBIEL FIERRO TREJO knowingly had in their possession goods and chattels, to wit: Nike Shoes, of a value in excess of \$1000.00, which had been stolen from a Burlington Northern Santa Fe train while moving in interstate commerce from California to Arizona, knowing the said goods and chattels to be stolen.

All in violation of Title 18, United State Code, Section 659.

ATTACHMENT B

STATEMENT OF PROBABLE CAUSE

I, Chris Foster, a Special Agent for Homeland Security Investigations (HSI), being duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with HSI and have been so employed since December 1997. I have a Bachelor of Science in Criminal Justice from California State University Sacramento. I am a law enforcement officer of the United States, and I am empowered by law to conduct criminal investigations, make arrests, and serve search and arrest warrants.

2. As a Special Agent with HSI, your Affiant investigates criminal violations of United States law, including import and export violations, controlled substances law violations, and money laundering violations. Your Affiant has participated in hundreds of investigations involving stolen vehicle organizations, theft ring investigations, possession, manufacture, distribution, and importation of controlled substances, as well as methods used to finance drug transactions. As an HSI Special Agent, your Affiant has been trained in conducting narcotics and money laundering investigations and received specialized training concerning violations of the Controlled Substances Act contained within Title 21 of the United States Code. I am currently assigned to the HSI Flagstaff Office located in Flagstaff, Arizona, where we investigate transnational criminal organizations to include money laundering and drug trafficking organizations operating throughout the United States.

3. By virtue of my employment as a Special Agent, your Affiant has performed various tasks, which include, but are not limited to:

- a. functioning as a surveillance agent, thus observing and recording movements of persons involved in violations of United States Code as well as violations of Arizona State law;

- b. interviewing witnesses, confidential reliable informants (CIs) and sources of information (SOI) relative to the violations of United States Code as well as violations of Arizona State law;
- c. functioning as a case agent, entailing the supervision of specific investigations involving various crimes throughout the United States; and
- d. conducting complex investigations involving transnational criminal organizations committing various crimes throughout the United States.

4. I have consulted with other experienced investigators concerning the practices of transnational criminal organizations and the best methods of investigating them. In preparing this affidavit, I have conferred with other Special Agents and law enforcement officers. Furthermore, I have personal knowledge of the following facts or have learned them from the individual(s) mentioned herein.

5. Based on the below facts, your Affiant submits there is probable cause that Deny Misraim BAEZ Trejo and Erubiel FIERRO Trejo committed the crime of Possession or Receipt of Goods Stolen from Interstate Shipment, in violation of Title 18, United States Code (U.S.C.) § 659.

BACKGROUND

6. Over the past fifteen years, several Transnational Criminal Theft Organizations have been burglarizing Burlington Northern Santa Fe (BNSF) Railway as well as Union Pacific trains throughout the Southwest of the United States to include Arizona. These organizations consist primarily of Mexican citizens from the Mexican State of Sinaloa who operate out of Arizona and California, with extensive connections throughout California, Arizona, and New Mexico. The train burglaries have increased in frequency over the past two years.

7. The suspects usually scout high value containers on the BNSF railway on Eastbound trains that parallel Interstate 40 near Needles, California. Once the organization targets a particular train of interest, they typically find a location for several train burglars to get on the train. Once on the train, the burglars open container doors while the train is

moving and target merchandise to steal such as electronics, tools, and footwear. The burglars often target containers with visible high-security locks and use reciprocating saws, bolt-cutters, or similar tools to defeat the locking mechanisms. Once the burglars target a specific container that has desirable merchandise, the burglars on the train communicate with follow vehicles utilizing cellular devices, and those follow vehicles surveil the train until it stops, or the burglars will cause the train to stop to unload the freight. The suspects often cut the train braking system air hose, which causes the train to go into an emergency stop (commonly referred to as “UDE”), which is a sudden and dramatic application of all the brakes on the train. By cutting an air hose, the burglars can control when and where the train is stopped to unload the cargo they target to burglarize. This act is very dangerous and can cause a train to derail, which could ultimately cause serious injury or death to BNSF employees or citizens. The suspects have also sabotaged the train signal system by cutting the locks off signal boxes and then by cutting the control wires inside. This is also a dangerous act that creates dark areas on the rail network, requiring non-traditional train dispatching functions and extensive repairs. High-value trains travel at speeds up to 70 MPH on multiple tracks in both east and west directions. The train crews and train dispatchers rely on the signals for safe transportation.

8. Once the burglars unload the merchandise from the container that is on the train, the burglars often hide the product in fields or brush adjacent to the BNSF tracks to conceal it until it can be picked up later. The location of the stolen merchandise is then shared by the train burglars with the use of cellular devices to the surveillance crew who are following the train. The organization will then send a U-Haul or box truck to pick up the stolen merchandise if law enforcement is not detected. Once the stolen merchandise has been picked up, it is usually transported to California where it is sold or fenced to wholesale online retailers such as third-party Amazon and eBay resellers.

CURRENT INVESTIGATION

9. On March 15, 2024, your Affiant learned from Coconino County Sheriff's Office Deputy Curtis Peery the following information:

- a. There was a call for service regarding individuals taking boxes from the BNSF railway and loading them inside a white Ford panel van in Sherwood Forest, Arizona.
- b. Coconino County Sheriff's Office Deputy Joseph Ellis located the white Ford panel van near Interstate 40 and initiated a traffic stop by activating his emergency lights. When they stopped the white Ford panel van, Deputy Ellis observed boxes in the vehicle. Deputy Ellis contacted the driver, Erubiel FIERRO Trejo, and placed him in handcuffs.
- c. Then, Deputy Ellis contacted the passenger, Deny Misraim BAEZ Trejo, and placed him in handcuffs.
- d. Once Deputy Ellis placed BAEZ in handcuffs, FIERRO ran away from the traffic stop location while still in handcuffs and ran across Interstate 40 over several lanes of traffic. FIERRO jumped over a fence and hid in a culvert until he was apprehended by Coconino County Sheriff's Office Deputy Sergeant Chris Gregor.

10. Deputy Peery took pictures of the lot numbers on the side of the boxes that were located along the BNSF railway and the boxes inside the white Ford panel van and provided those numbers to BNSF Special Agent Derrick Porter. Special Agent Porter told your Affiant he checked with Nike Security who told him those lot numbers were on BNSF train ZLACNSA814M inside container HLBU1600832. Special Agent Porter told your Affiant that he checked BNSF records for train ZLACNSA814M and learned the train was stopped near Sherwood Forest, Arizona, on March 15, 2024, for approximately 40 minutes in and around 6:30 a.m.

11. Deputy Peery estimated there were approximately 50 cases of Nike shoes within the white Ford van. Your Affiant knows that Nike boxes have six pairs of shoes in

each case which would equal 300 pairs of shoes. Based on information provided by Nike security, your Affiant learned that the manufacturer's suggested retail price (MSRP) for the 300 pairs of Nike shoes is worth approximately \$54,000.

12. BAEZ and FIERRO were then transported to the Coconino County Sheriff's Office located at 911 East Sawmill, Flagstaff, Arizona. The white Ford panel van was transported to the Coconino County Sheriff's Office substation in Williams, Arizona, for safe keeping.

13. Deputy Peery interviewed Sherwood Fire station Captain Mathew McDowell who told him he received a message from another firefighter that there were individuals taking boxes from the BNSF railway and loading them into a white ford panel van directly behind the Sherwood Fire station. Captain McDowell said that when he arrived at the Sherwood Fire station, he observed two Hispanic males get inside a white Ford panel van and depart the area, and he also observed three other Hispanic males that walked North toward the BNSF railway.

14. Deputy Peery also spoke to a neighboring property resident/witness who observed approximately 15 Hispanic males walking boxes from the BNSF Railway to a white Ford panel van. The resident/witness also observed two Hispanic males get inside the white Ford panel van and depart the area, and at the same time the resident/witness observed three Hispanic males walk North toward the BNSF railway. The resident/witness also observed 10 Hispanic males get inside a cream in color Ford Expedition and depart the area. The resident/witness took a video and provided that video to Deputy Peery.

15. Your Affiant watched the video and observed two individuals walking through the snow carrying several boxes toward a white Ford panel van where several other individuals were loading boxes inside the vehicle.

16. Deputy Peery walked the BNSF railway and located several open boxes that looked the same and contained the same lot numbers as the boxes that were inside the white Ford panel van. When he walked the BNSF railway, he observed approximately four separate sites where it appeared there were prints in the snow where individuals had

been moving boxes to include clusters of footprints in the snow and imprints in the snow matching the same size as the boxes recovered near the BNSF railway and from the white Ford panel van. Deputy Peery followed the footprints in the snow from the BNSF railway and the tracks ended at the location where the white Ford panel van was seen being loaded with boxes.

Deny Misraim BAEZ Trejo

17. Your Affiant checked Department of Homeland Security records for BAEZ and learned that he is a resident of Mexico from Choix, Sinaloa and is illegally present in the United States. Your Affiant also learned that BAEZ was a voluntary return to Mexico in May of 2019, and in between May of 2021 and September 2022, BAEZ was voluntarily removed to Mexico on four separate occasions.

18. Special Agent Mitch Worley and Flagstaff Police Department Officer John Casteneda interviewed BAEZ after he was read his *Miranda* rights in Spanish, and he agreed to speak with law enforcement. The interview was recorded.

19. BAEZ appeared to provide several false statements about how he was involved in burglarizing BNSF trains. However, he ultimately shared that he was going to be paid \$500.00 to pick up boxes. BAEZ told agents that he was dropped off in the Sherwood Forest area along with his cousin, FIERRO. During that time, he was with approximately seven other people, and they organized boxes that were along the BNSF railway and then started to move the boxes to a white Ford van.

20. BAEZ gave consent to search his phone identified as a black in color iPhone 15. Officer Castenda, while doing a quick preview of the iPhone, observed a video taken on March 15, 2024, at approximately 4:36 a.m. of what appears to be BAEZ along with an unidentified Hispanic male inside of what appears to be an ocean container on a BNSF train. Officer Castenda also observed several photos that were taken on March 15, 2024, at approximately 6:19 a.m. of what appears to be BAEZ holding a Nike shoe in his hand while on the ground with a snow filled background.

Erubiel FIERRO Trejo

21. Your Affiant checked Department of Homeland Security records for Erubiel FIERRO Trejo and learned that he is resident of Mexico from Los Mochis, Sinaloa. Your Affiant also learned that FIERRO entered the United States in June of 2023 on a B1/B2 visitor's visa and was supposed to have departed the United States in December of 2023.

22. Special Agent Mitch Worley and Flagstaff Police Department Officer John Casteneda interviewed FIERRO after he was read his *Miranda* rights in Spanish, and he agreed to speak with law enforcement. The interview was recorded.

23. FIERRO told agents that he and his cousin, BAEZ, were approached by a group of individuals while at a mall located in Phoenix, Arizona, and during the conversation the group offered them \$500.00 to pick up boxes from a Bodega and take them to storage location in Scottsdale, Arizona. FIERRO told agents that his cousin BAEZ was the main point of contact for the group.

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CONCLUSION

24. For these reasons, your Affiant submits that there is probable cause to believe Deny Misraim BAEZ Trejo and Erubiel FIERRO Trejo committed the crime of Possession or Receipt of Goods Stolen from Interstate Shipment, in violation of Title 18, United States Code (U.S.C.) § 659.

25. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

CHRISTOPHER E
FOSTER

 Digitally signed by
CHRISTOPHER E FOSTER
Date: 2024.03.16 14:26:34 -07'00'

CHRIS FOSTER
Special Agent
Homeland Security Investigations

Sworn to and subscribed electronically this 16th day of March, 2024.

HONORABLE CAMILLE D. BIBLES
United States Magistrate Judge